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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/059,929	01/29/2002	Tuan Bui	SMEIS-5807 (112713-1098)	8386
29290 7590 08/05/2008 BAXTER HEALTHCARE CORPORATION 1 BAXTER PARKWAY DF2-2E DEERFIELD, IL 60015				
EXAMINER				
COBANOGILU, DILEK B				
ART UNIT		PAPER NUMBER		
3626				
MAIL DATE		DELIVERY MODE		
08/05/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/059,929

Applicant(s)

BUI ET AL.

Examiner

DILEK B. COBANOGU

Art Unit

3626

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 April 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-191 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-191 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SF/ICE)
Paper No(s)/Mail Date 5/30/02, 8/23/04, 8/24/04
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Notice to Applicant

1. This communication is in response to the amendment received on 4/30/2008.

Claim 1 has been amended. Claims 1-191 remain pending in this application.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-191 are rejected under 35 U.S.C. 102(e) as being unpatentable by

White et al. (hereinafter White) (U.S. Patent No. 6,790,198 B1).

A. Claim 1 has been amended now to recite a method for operating a medical device, the method comprising the steps of:

- i. inputting into a first computer a first patient identifier and an operating parameter for the medical device (White; col. 6, line 48 to col. 7, line 57);
- ii. inputting into a second computer, from a first source, a second patient identifier (White; col. 15, lines 3-20);

- iii. inputting into the second computer, from a second source, a medication identifier, the medication identifier including a third patient identifier (White; col. 9, lines 35-43);
- iv. determining if the second patient identifier is equivalent to the third patient identifier and sending the medication identifier to the first computer, if the second patient identifier is equivalent to the third patient identifier (White; col. 6, line 48 to col. 7, line 57); and
- v. determining if the third patient identifier is equivalent to the first patient identifier and sending the operating parameter from the first computer to the medical device, if the third patient identifier is equivalent to the first patient identifier, where the operating parameter does not pass through the second computer (White; col. 4, lines 13-52).

B. Claims 2-191 have not been amended, and Applicant does not appear to argue the separate patentability of these claims. As such, claims 2-191 are rejected for the same reasons given in the previous Office Action (paper number 3-13), and incorporated herein.

Response to Arguments

4. Applicant's arguments filed 4/30/2008 have been fully considered but they are not persuasive. Applicant's arguments will be addressed below in the order in which they appear.

A. In response to Applicant's argument about White does not teach "the step of inputting into a second computer a second patient identifier"; Examiner respectfully submits that White teaches "a hand-held communication unit 98 (second computer) specially adapted with bar code reading capabilities may be used to scan an IV container bar code information." In col. 9, lines 31-58, and "The nurse is prompted to **scan** in the patient's ID, at step 148. The patient's ID may appropriately be established with a **wristband** (second patient identifier) having a bar code for the patient's ID set forth thereon" in col. 13, lines 3-20.

B. In response to Applicant's argument about White does not teach "sending operating parameter from the first computer to the medical device where the operating parameter does not pass through the second computer"; Examiner respectfully submits that white teaches "Referring to the schematic flow diagram of FIG. 3, further combinations of inventive features may be understood. In this schematic the IV pump 10 for administering IV medication to a patient and for pump operation data transmission to a hospital information system HIMS 60, are depicted among other components in a flow diagram. Medication is ordered, prepared and delivered to a patient in a hospital or other institutional health care facility. The wireless communication signal 49 from the IV pump 10 to the HIMS 60 is depicted as dashed lines with the arrowhead directed toward the HIMS.

The HIMS 60 might likewise communicate with the IV pump 10 along the dashed line as indicated by the arrowhead 67 pointing toward the IV pump.

As will be discussed more fully below, the wireless communication between the

IV pump 10 and the HIMS 60 might **alternatively** be in the form of a signal 49a from the IV pump 10 to a nurse's hand-held communication unit 98, and a retransmission signal 49b from the hand-held unit 98 to the HIMS 60, as depicted with dotted lines in FIG. 3. Similarly, the HIMS 60 may communicate to the IV pump with a transmission signal 67a to the nurse's hand-held communication unit 98 and the retransmission signal 67b from the hand-held communication unit 98 to the IV pump 10. It maybe understood that the doctor's transmitter and the nurse's hand-held unit may be the same or similar type of wireless communication devices used for different purposes at different parts of the system by different professional healthcare givers." in col. 7, line 58 to col. 8, line 18. Therefore the first computer (**HIMS 60**) can communicate with the medical device (**IV pump 10**) directly, without passing through the second computer (nurse's hand-held communication unit 98).

C. In response to Applicant's argument about White does not teach "determining if a second patient identifier is equivalent to a third patient identifier"; Examiner respectfully submits that "...the nurse may enter an appropriate patient and IV medication identification into the hand-held communications unit 98 and this identification may be wirelessly transmitted to access the HIMS for receiving from the HIMS such information and instructions for IV pump administration of the identified IV medication to the identified patient..." in col. 9, lines 47-53.

D. In response to Applicant's argument about White does not teach "a digital assistant designed to read a first patient identifier" Examiner respectfully submits

that White teaches "The nurse may use a **hand-held communication unit 98** (or a digital assistant) to manually enter information from a label on an IV container. The nurse may transmit the instructional data to the IV pump and upon confirming that the patient, medication and pumping data match, the nurse may initiate IV pumping. Alternatively a **hand-held communication unit 98** specially adapted with **bar code reading capabilities** may be used to scan an IV container bar code information." In col. 9, lines 31-58.

Conclusion

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).
6. A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.
7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **DILEK B. COBANOGLU** whose telephone number is (571)272-8295. The examiner can normally be reached on 8-4:30.

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8. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher L. Gilligan can be reached on 571-272-6770. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

9. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/D. B. C./
Examiner, Art Unit 3626
7/22/2008

/Robert Morgan/
Primary Examiner, Art Unit 3626